

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of
Federal-State Joint Board on)
Universal Service)

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CC Docket No. 96-45

**Comments of the
Colorado Library, Education, & Healthcare Telecommunications Coalition
(Colorado LEHTC)**

I. Introduction and Executive Summary

The Colorado Library, Education and Healthcare Telecommunications Coalition (Colorado LEHTC) welcomes the opportunity to comment on the Federal-State Joint Board's November 7, 1996 recommendations. Colorado LEHTC is comprised of 44 libraries, elementary and secondary schools, health care providers and related associations interested in the advanced services discount provisions enacted as part of Section 254 of the Telecommunications Act of 1996.

In addition to the questions posed by the Common Carrier Bureau in its request for comments on November 18, 1996, we feel it is necessary to respond to additional issues raised by the Joint Board's recommendations. This summary offers our recommendations for resolving some of these issues:

1. Strongly support the Joint Board's inclusion of all advanced telecommunications services (Joint Board Recommendation, Paragraphs 458-465);
2. Recommend identifying rural areas as high cost areas using the Department of Health and Human Services' Office of Rural Health Policy's rural definition since distance and isolation combine to create unaffordable rates (Joint Board Recommendation, Paragraphs 557-560);
3. Recommend discount matrix for libraries use the same income threshold (185% of poverty) as the National School Lunch Program (NSLP), but not be limited to the student population within its district or service area (Joint Board Recommendation, Paragraph 555);
4. Recommend libraries and schools send bona fide requests directly to telecommunications providers with a copy to the state public utilities commission for posting rather than the Federal Communications Commission or its agent and require that the telecommunications provider respond within 20 days (Joint Board Recommendation, Paragraphs 602-604 & 628-630);
5. Recommend states be given the authority to implement discount programs as well as authority to arbitrate disagreements between parties so that eligible entities only have to participate in one process (Joint Board Recommendation, Paragraph 573);
6. Strongly disagree with Joint Board's interpretation of rural health care providers and recommend that the Common Carrier Bureau follow the statutory language which includes entities serving rural areas, not just those located in rural areas (Joint Board Recommendation, Paragraphs 702-704).

II. Support for Joint Board Definition of Advanced Services

First, we strongly support the Joint Board's recommendation to include all advanced telecommunications services in the discount mechanism for libraries and schools. The Joint Board recognized a fact that we deal with every day - each library and school requires a different

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level of service and has varying capabilities. (Joint Board Recommendation, Paragraphs 458-465)

In Colorado, we have libraries and schools that require T-1 service to meet their constituent needs while others require satellite access and still others require only a fraction of those service levels. In some rural areas it is nearly impossible to afford any of these services. The price differential between the urban and rural areas is exponential and current rates are extraordinarily distance sensitive. This has meant that the most remote areas of Colorado – those most in need of telecommunications services – have the hardest time paying for these services.

Second, in response directly to the question of determining high cost areas posed by the Common Carrier Bureau's Request for Comment, we support the Joint Board's position that affordability contains two factors - price and ability to pay rates (Joint Board Recommendation, Paragraphs 557-560). However, there may be areas, like Colorado, where the school funding formula accounts for discrepancies in funding capabilities among school districts. In these instances, other issues, such as the price of reaching rural areas, become more important factors in determining affordability because the state funding formula mitigates the differences between richer and poorer districts, but cannot mitigate the distance and rurality factors associated with telecommunications costs throughout the state. We recommend that the Federal Communications Commission consider all rural areas, as defined by the Department of Health and Human Services' Office of Rural Health Policy including the Goldsmith Modification, to be high cost areas for the purposes of the discount matrix. These areas are, by definition, the hardest to reach and suffer the difficulties of distance and rurality factors.

Third, related to this, we believe that the discount matrix presented in the Joint Board Recommendation may be appropriate for schools, but will be difficult for libraries to implement due to overlapping jurisdictions (Joint Board Recommendation, Paragraph 555). We recommend that the Federal Communications Commission (FCC) implement a similar discount matrix process for libraries that is not tied to the National School Lunch Program (NSLP). Libraries serve a broader population than school-age children and this population may not be captured through the NSLP process. For example, Arapahoe County, Colorado has seven schools that receive free or reduced lunches varying from 9% to 56% of the student population. The same county has three public library service areas which cross the school district lines. We recommend using the same income threshold as the NSLP (185% of poverty), but broadening the scope to all households in a library service area, not a school district. This income information is available through the same census process upon which the NSLP is based and library districts are as concrete as school districts in determining boundaries.

Fourth, we appreciate the Joint Board's attempt to make the process simpler by having the libraries and schools submit requests to the fund administrator for posting (Joint Board Recommendation, Paragraphs 602-604 & 628-630). However, we are concerned that, as presented in the Joint Board's proposal, this does not require a telecommunications provider to respond to the request which renders the entire discount opportunity moot. We propose that the library or school present its bona fide request directly to the telecommunications providers of its choice and file a copy of the requests with the State fund administrator. In addition, we believe that a telecommunications provider serving the area in which the library or school is located should be required to respond to the bona fide request and other telecommunications providers should be allowed to respond within 20 days. First, this would assure that the library or school may avail itself of the discount provision and offer the libraries and schools an opportunity to get the discount process underway. Second, by requiring the library or school to submit requests to more than one entity, this promotes the competition that the Joint Board and, presumably, the FCC are attempting to promote to potentially reduce prices.

In recommending that the school, library or rural health care provider file a copy of the bona fide request with the State fund administrator, we submit that our members consider the state agency

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to be a more accessible interface than the Federal government. With all due respect, because most schools, libraries and rural health care providers rarely deal with the FCC, we believe it will be easier to work with the State public utilities commissions who have more experience with the unique circumstances surrounding each state's situation.

Fifth, as noted above, we appreciate the Joint Board's attempt to make the process as simple as possible and believe that from a federal funding standpoint, it may be simplest to administer the program from Washington, DC. However, from a library, school or rural health care provider's perspective, simple means working through one process. As noted in the Joint Board's Recommendations, the Federal government sets the policy for interstate activities and, according to the statute, the State government sets the policy for intrastate activities (Joint Board Recommendation, Paragraph 573). While we agree that the Joint Board's recommended policies be a minimum threshold, we believe implementation, from the library, school or rural health care provider's perspective should be carried out through the state commissions so that any additional discount mechanisms established by the state can piggyback those established through these proceedings. In addition, as mentioned above, working with a state bureaucracy is less intimidating for most libraries, schools and rural health care providers.

Related to this, the Joint Board did not identify any mechanism for resolving disputes among parties during the negotiations between the telecommunications provider and the eligible entity. Again, we believe this is an important function that should be included in the rules established by the FCC and that it should be carried out by the state commission due to the reasons mentioned above.

Sixth, we are disappointed with the Joint Board's interpretation of a rural health care provider (Joint Board Recommendation, Paragraphs 702-704). While we understand the Joint Board's concern that potentially every health care provider qualifies as serving rural residents, the strict reading of the statute indicates, for example, that teaching hospitals are included in the list of eligible entities. It is difficult to imagine a teaching hospital located in a defined rural area. Further, in order for rural areas to benefit from the knowledge and resources associated with a teaching hospital, those entities must be included in the discount proposal. We recommend that the FCC return to the Joint Explanatory Statement accompanying Public Law 104-104 and establish a standard by which only those services benefiting the rural area receive the discount to limit possible abuses of this provision.

We thank you for this opportunity to comment on these proceedings.

Nancy Bolt, Deputy State Librarian
on behalf of the Colorado Library, Education, and Healthcare Telecommunications Coalition